

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

C.A.NO. 09-11705-NG

JONATHAN GREEN

Plaintiff.

v.

CITY OF BOSTON; EDWARD DAVIS, in his
capacity as CHIEF OF THE BOSTON POLICE
DEPT; TIMOTHY MCCARTHY, individually
and in his official capacity as an Employee,
Agent, and/or Officer of the BOSTON POLICE
DEPARTMENT

Defendants.

**MOTION IN OPPOSITION TO DEFENDANT TIMOTHY MCCARTHY'S MOTION
FOR SUMMARY JUDGMENT**

NOW comes the Plaintiff, Jonathan Green, and pursuant to Fed.R.Civ.P.56 request that this Honorable Court **DENY** summary judgment in the Defendant's favor, as the Plaintiff has demonstrated an issue of fact as to whether Defendant Timothy McCarthy committed excessive force when he slammed the Plaintiff's head against a police cruiser after he was placed in handcuffs. This issue of fact is created by the Plaintiff's own testimony, stating he is **100% certain** that it was the Defendant, Timothy McCarthy who perpetrated this act upon him. The Plaintiff also submits the affidavit of the undersigned in support of his motion.

Respectfully Submitted,
JONATHAN GREEN
By his Attorney,

/s/ Gordon W. Spencer
Gordon W. Spencer, Esq.
945 Concord Street
Framingham, MA 01701
BBO# 630488
(508) 231-4822

Dated: June 11, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing motion upon all counsel of record, via electronic transmission, this 11th day of June, 2012.

/s/ Gordon W. Spencer